

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ANGELITO C MERCADO,)	
)	
Plaintiff,)	
)	
v.)	No. 1:21-cv-02961-JPH-MG
)	
AIDA RAMIREZ,)	
)	
Defendant.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Having screened Mr. Mercado's complaint under 28 U.S.C. § 1915A, Magistrate Judge Mario Garcia has entered a Report and Recommendation, dkt. 7, recommending:

1. The Clerk **shall consolidate** Case No. 1:21-cv-2961-JPH-MG into Case No. 1:20-cv-2179-JPH-TAB and **close** Case No. 1:21-cv-2961-JPH-MG, and no further filings should be made in that case. No final judgment will issue in Case No. 1:21-cv-2961-JPH-MG.
2. The Clerk is **directed** to add Aida Ramirez as a defendant in Case No. 1:20-cv-2179-JPH-TAB.
3. All future filings **shall** be filed in Case No. 1:20-cv-2179-JPH-TAB.
4. The following claims **shall proceed** against Defendant Aida Ramirez: (1) conspiracy under 42 U.S.C. § 1985, (2) failure to intervene and equal protection in violation of the Fourteenth Amendment, and (3) retaliation under 42 U.S.C. § 1983. This ruling is without prejudice to the filing of a proper Fed. R. Civ. P. 12 motion.
5. The stay entered in Case No. 1:20-cv-2179-JPH-TAB is **lifted** for the **sole** purpose of requiring Defendant Aida Ramirez to file a responsive pleading to Plaintiff's Complaint within 28 days following an order on this Report and Recommendation. All other aspects of the stay **shall** remain in place.

The parties have had the opportunity to object but have not done so. See Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1). The Court has considered and now

ADOPTS the Report and Recommendation, as amended below. Dkt. [7].

Based upon the recommendation to consolidate, the stay in Case No. 1:20-cv-2179-JPH-TAB is **lifted** for the purpose of requiring Mr. Mercado to **file** a second amended complaint **by March 3, 2022**. The second amended complaint **shall** encompass the claims asserted in his amended complaint, 1:21-cv-2179-JPH-TAB Dkt. 109, and the additional claims asserted against Defendant Ramirez in this case as outlined at (4) above, but the second amended complaint **shall not** add new parties or new claims. The stay is **additionally lifted** for the purpose of filing responsive pleadings.

The Clerk **shall consolidate** Case No. 1:21-cv-2961-JPH-MG into Case No. 1:20-cv-2179-JPH-TAB and **close** Case No. 1:21-cv-2961-JPH-MG. The Clerk is **directed** to add Aida Ramirez as a defendant in Case No. 1:20-cv-2179-JPH-TAB and **shall** docket a copy of this order in that case.

All future filings **shall** be filed in Case No. 1:20-cv-2179-JPH-TAB.

SO ORDERED.

Date: 2/2/2022



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

ANGELITO C MERCADO
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